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Meeting of States Parties
Thirteenth Meeting
New York, 9-13 June 2003

Draft decision concerning the liability of the International Tribunal for the Law of the Sea in the event of the death, injury or illness of members of the Tribunal attributable to service with the Tribunal

Working paper prepared by the Tribunal

1. During its fifteenth session, the Tribunal noted that no provision had been made to cover its liability in the event of the death, injury or illness of members of the Tribunal attributable to service with the Tribunal. It observed that it would not have the financial means to cover its liability if such incident occurred and resulted in compensation payments and that no budget line had yet been incorporated in previous budgets for such purposes.

2. The Tribunal has, however, made provision to cover its liability in the event of the illness, accident or death of staff members attributable to the performance of official duties on behalf of the Tribunal, as required by its Staff Regulations. Furthermore, the Tribunal has taken out third-party insurance. It should be noted that members of the Tribunal are not considered to be third parties and therefore are not covered by this insurance.

3. The General Assembly, in its resolution 34/233 of 20 December 1979, authorized the Secretary-General to promulgate rules governing compensation to members of commissions, committees or similar bodies in the event of death, injury or illness attributable to service with the United Nations.[1] The General Assembly further decided that:

> "... the rules shall apply to members of all commissions, committees and similar bodies in respect of which the United Nations pays daily subsistence allowance or annual remuneration and **any such bodies as may in future be certified by the Secretary-General as falling into such category;**" (emphasis added)[2]

Consequently, in 1981, the Secretary-General promulgated the "Rules Governing Compensation to Members of Commissions, Committees or Similar Bodies in the Event of Death, Injury or Illness Attributable to Service with the United Nations".[3]

03-38361 (E)

4. As regards compensation for service-incurred illness, injury or death attributable to the performance of official duties of judges of the International Court of Justice, the Secretary-General, in a note dated 22 November 1982, expressed his intention to extend to the judges of the Court such coverage under the "Rules Governing Compensation to Members of Commissions, Committees or Similar Bodies in the Event of Death, Injury or Illness Attributable to Service with the United Nations", with effect from 1 January 1983.[4] Accordingly, those rules have been applied to judges of the Court since that date.

5. Hence, the Tribunal decided, in accordance with rule 6 (e) of the Rules of Procedure for Meetings of States Parties, to propose the inscription on the provisional agenda of the thirteenth Meeting of States Parties of an item concerning the question of the liability of the Tribunal in the event of the death, injury or illness of members of the Tribunal attributable to service with the Tribunal. Furthermore, the Tribunal decided to submit to the Meeting of States Parties the following draft decision for its consideration:

"Draft decision concerning the liability of the International Tribunal for the Law of the Sea in the event of the death, injury or illness of members of the Tribunal attributable to service with the Tribunal

"*The Meeting of States Parties*

"1. *Decides* that provision should be made to cover the liability of the International Tribunal for the Law of the Sea in the event of the death, injury or illness of members of the Tribunal attributable to service with the Tribunal;

"2. *Authorizes* the Tribunal to request the Secretary-General of the United Nations, within the ambit of the Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea, to consider extending to members of the Tribunal such coverage under the 'Rules Governing Compensation to Members of Commissions, Committees or Similar Bodies in the Event of Death, Injury or Illness Attributable to Service with the United Nations',[3] in accordance with section VI, paragraph 2, of General Assembly resolution 34/233 of 20 December 1979;

"3. *Approves*, pending the decision by the Secretary-General, an appropriation of 6,000 United States dollars for 2004 in order to provide the Tribunal with the necessary financial means to cover its liability in the event of death, injury or illness of members of the Tribunal attributable to service with the Tribunal by taking out an insurance policy providing for equivalent benefits to those available under the 'Rules Governing Compensation to Members of Commissions, Committees or Similar Bodies in the Event of Death, Injury or Illness Attributable to Service with the United Nations'."

Notes

[1] General Assembly resolution 34/233 of 20 December 1979, on "Questions relating to the programme budget for the biennium 1980-1981", sect. VI, para. 1.

[2] Sect. VI, para. 2.

[3] ST/SGB/103/Rev.1.

[4] A/C.5/37/50 of 22 November 1982 (under the agenda item "Programme budget for the biennium 1982-1983"), on travel and subsistence regulations applicable to the members of the International Court of Justice, para. 6.